

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-6 (Sub-No. 413X)

**The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—In
Washington County, MN**

BACKGROUND

In this proceeding, the Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon and discontinue service over a .99-mile line of railroad, extending from BNSF Milepost 11.81 to BNSF Milepost 12.80 in the City of Stillwater, in Washington County, MN. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, BNSF will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to BNSF, the line was acquired by the Stillwater Union Depot and Transfer Company (SUDT), the Stillwater Street Railway & Transfer Company (SST), and the Northern Pacific Railway Company (NP) between 1871 and 1910. The SUDT and the SST were predecessors to NP. In 1970, NP merged with other railroads to become part of Burlington Northern Railroad (BN), and in 1995, BN merged with the Atchison Topeka and Santa Fe Railway to become BNSF.

The line is located within the City of Stillwater, which is an urban area. Additionally, the line is in close proximity to the St. Croix National Scenic Riverway, which extends from its headwater source near Gorden, WI, and along the Minnesota/Wisconsin border to Taylor's Falls, MN/St. Croix Falls, WI.¹ The riverway is one of eight original rivers designated by Congress when the National Wild & Scenic Rivers Program was established in 1968.² Under the Wild and Scenic Rivers Act, it is the policy of the United States to preserve selected rivers, or sections thereof, in their free-flowing condition to protect the water quality of such rivers and to fulfill other national conservation purposes. See Wild and Scenic River Act, 16 U.S.C. 1271.

¹ See Minnesota Department of Natural Resources' website at http://www.dnr.state.mn.us/waters/watermgmt_section/wild_scenic/wsrivers/stcroix_upper.html.

² Id.

According to BNSF, the width of the right-of-way varies from 20 to 210 feet, and abandonment of the line would allow for the elimination of four public crossings.

According to BNSF, there has been no traffic on the line for at least two years. Upon receiving authority to abandon the line, BNSF may remove the remaining rail, track material, and crossties; however, the roadbed will be left intact.

ENVIRONMENTAL REVIEW

BNSF submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way.³ The applicant served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. SEA has reviewed and investigated the record in this proceeding.

The National Geodetic Survey (NGS) has advised SEA that one geodetic station marker has been identified that may be affected by the proposed abandonment.

Because traffic has not moved on the subject rail line for at least two years, the proposed abandonment would not be expected to impact the development, use and transportation of energy resources or recyclable commodities, or result in the diversion of rail traffic to truck traffic that could result in impacts to air quality or the local transportation network.

The U.S. Army Corps of Engineers, St. Paul District, has determined that the proposed abandonment, as outlined by BNSF, would not involve the discharge of dredged or fill material in waters of the United States, including wetlands. Therefore, a Department of the Army permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required.

The Minnesota Department of Natural Resources commented that the abandonment, as proposed by BNSF, would not affect the 100-year floodplain. Accordingly, no mitigation measures were suggested.

The United States Department of Agriculture, Natural Resources Conservation Service, informed SEA that the proposed abandonment would not have any effect on prime agricultural land. Accordingly, the Farmland Protection Policy Act does not apply to this land, and no mitigation measures were suggested.

³ Under 49 CFR 1152.20(a)(4), an applicant must publish its notice of intent to abandon and discontinue service in a newspaper of general circulation in each county in which any part of the involved line is located. SEA notes that BNSF has not submitted any documentation of the required publication.

The Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program (MDNR), reviewed the Minnesota Natural Heritage database to determine if any rare plant or animal species or other significant natural features are known to occur within an approximate one-mile radius of the proposed abandonment. The MDNR submitted a database printout and stated that there are 30 known occurrences of rare species or natural communities in the subject area. However, the MDNR further stated that the proposed project would not affect any known occurrences of rare features, provided the project would not impact the water quality of the St. Croix River. Accordingly, SEA contacted the St. Croix National Scenic Riverway (SCNSR) to determine the effect of the proposed abandonment on the St. Croix River. The SCNSR requested additional information, including a map of the proposed abandonment and a copy of the MDNR letter. On May 26, 2004, SEA sent the requested materials to the SCNSR and added SCNSR to the service list. SEA recommends a consultation condition requiring that BNSF contact Jill Medland at the SCNSR prior to commencement of any salvage activities.

BNSF does not believe that the proposed abandonment would affect any wildlife sanctuaries, refuges, or National or State parks or forests. The U.S. Department of the Interior, Bureau of Land Management's Milwaukee Field Office (BLM) stated that there are no BLM-administered Federal lands along the railroad line, and the U.S. Department of Agriculture, Forest Service - Eastern Region (Forest Service), stated that there are no Forest Service-administered lands in the proposed project impact area. However, the Forest Service recommended that BNSF contact the U.S. Department of the Interior, National Park Service, regarding the possible impacts to the St. Croix National Scenic Riverway. Accordingly, SEA recommends a consultation condition requiring that BNSF contact the National Park Service prior to commencement of any salvage activities.

According to BNSF, there are no known hazardous waste sites or hazardous material spill sites on the subject right-of-way.

BNSF states that the ROW may be suitable for public use, such as a recreational trail.

HISTORIC REVIEW

BNSF submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Minnesota Historical Society (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). According to the SHPO, the line proposed for abandonment is partially located within the Stillwater Commercial District, which is listed on the National Register of Historic Places (National Register). The line is also located within the Stillwater Cultural Landscape Historic District, which has been determined eligible for listing on the National Register. Additionally, the line is adjacent to individually listed National Register properties, including the Stillwater Lift Bridge and the Territorial/State Prison Warden's House. At the time this EA was prepared, the SHPO had not completed its assessment of the proposed abandonment. The SHPO has requested additional information from BNSF, including information on future plans for this rail segment.

Pending completion of the SHPO's review, we recommend a condition to ensure compliance with the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

SEA recommends that the following four (4) environmental conditions be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) has identified one (1) geodetic station marker that may be affected by the proposed abandonment. Therefore, BNSF shall notify NGS at least 90 days prior to salvage activities in order to plan for their relocation.
2. The Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program (MDNR), stated that the proposed project would not affect any known occurrences of rare features, provided the project would not impact the water quality of the St. Croix River. To determine the effect of the proposed abandonment on the St. Croix River, SEA recommends a consultation condition requiring that BNSF contact the National Park Service, St. Croix National Scenic Riverway (Jill Medland at 715-483-3284), prior to commencement of any salvage activities on this project, in order to identify the appropriate mitigation measures that may be warranted. If it is determined that the abandonment would impact the water quality of the St. Croix River, BNSF shall contact MDNR prior to commencement of any salvage activities on this project. The railroad shall report the results of these consultations to the Surface Transportation Board's Section of Environmental Analysis.
3. The U.S. Department of Agriculture, Forest Service - Eastern Region recommended that BNSF contact the U.S. Department of the Interior, National Park Service, regarding the possible impacts to the St. Croix National Scenic Riverway. Accordingly, SEA recommends a consultation condition requiring that BNSF contact Nick Chevance at the National Park Service's Midwest Region office prior to commencement of any salvage activities to determine the possible impacts on the St. Croix National Scenic Riverway. The railroad shall report the results of this consultation to the Surface Transportation Board's Section of Environmental Analysis.
4. The Minnesota Historical Society (the State Historic Preservation Office or SHPO) has requested information on future plans for this rail segment. Accordingly, BNSF shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-6 (Sub No. 413X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

Date made available to the public: June 4, 2004.

Comment due date: June 21, 2004.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

